IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4956 of 1999

with

SPECIAL CIVIL APPLICATION No 13587 to 13604 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BACHUBHAI KACHRABHAI JADAV

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4956 of 1999
   MS NAYANA V PANCHAL for Petitioner No. 1-19
   MR MA PATEL & MR PRADIP BHATE A.G.Ps. for Respondent No. 1-2
2. Special Civil Application No. 13587 to 13604 of 2000
   MS NAYANA V PANCHAL for Petitioner No. 1
   ..... for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 05/05/2004

ORAL COMMON JUDGEMENT

In these petitions, common question of fact is involved and, therefore, they are heard together and now they are disposed of by this common judgment. The petitioners belong to Class-IV service in the Police Department. Their say is that on account of the nature of duty assigned to them, they are required to report for duty even on regular holidays i.e. on 2nd and 4th Saturdays, on all Sundays and also on public holidays. Their grievance is that inspite of this, they are not being paid any additional amount for rendering service on the holidays. Their say is that similarly situated Class-IV employees belonging to State Reserve Police Force ["S.R.P.F." for short] are being given additional allowance for attending the duty on holidays. The petitioners have, therefore, prayed in these petitions that they also be extended the said benefit.

1.1. As against that the case of the respondents is that the petitioners belong to the Regular Police Force, and not S.R.P.F. In relation to S.R.P.F. several Circulars have been passed, whereby they are paid additional amount for working on public holidays and regular holidays. This benefit cannot be given to the petitioners as they are not the employees of the S.R.P.F. Further it is the say of the respondents that all the petitioners are from District Police Services and in case of S.R.P.F. also this benefit is not being extended to the Class-IV employees of the District Police Force and, therefore, the petitioner even on that ground cannot be given this benefit.

2. It may be noted here that no affidavit-in-reply has been filed by the respondents, though served long back. However, such case has been pleaded by by Mr. Mukesh Patel learned A.G.P. appearing for the respondents.

2.1. Ms. N.V. Panchal learned advocate appearing for the petitioner in all these petitions, submits that this Court [Coram : S.D. Shah, J.] in the decision rendered in the case of G.G. Malek v. State of Gujarat in Special Civil Application No. 1448 of 1988 dated 17th January, 1991 has held that in the case of Class-IV employees of S.R.P.F. namely barbers, cobblers etc., be considered for extension of the benefit in light of the Government Resolution dated 18th December, 1985. She,

therefore, submits that the petitioners' case can also be considered by the respondents department for grant of such benefit.

2.2. As against that, Mr. Mukesh Patel learned A.G.P. appearing for the respondents has submitted that the petitioners belong to Regular Police Force and, therefore, the direction given in the judgment referred to above will not apply to them since it is in relation to the employees of the S.R.P.F. He, therefore, submits that this petition be dismissed.

3. Having considered the rival submissions and also having carefully gone through the record of this petition, it appears that the petitioners belong to Class-IV service of the Police Department. Further the nature of duties assigned to them require them to work even on closed Saturdays, Sundays and also on Public Holidays. They are, however, not being paid additional salary for rendering service on holidays. It appears from the record that initially, Government Resolution was passed on 18th December, 1985, whereby the State Government has decided to given additional pay for the additional duty performed by the Personnel of the S.R.P.F. The said benefit was however, not made available to all the employees belonging to Class-IV of the S.R.P.F. and some of the employees working as Cooks, Washerman, tailors, barbers etc., were left out and they were not being paid additional pay for the additional duty rendered by them. They, therefore, approached this Court by filing Special Civil Application No. 1488 of 1988, which was allowed by the learned Single Judge and final direction was given on 4th February, 1991. In view of the said judgment, by a Government Resolution dated 16th October, 1991, it was decided to include the aforesaid categories of Class-IV employees for the said benefit regarding additional pay for the additional work rendered by them. By a further amendment dated 16th April, 1992, the State Government clarified the earlier Resolution and directed that over and above, Class-IV employees, like Cook, Washerman, Tailor, Cobbler, Barber etc., the benefit should be extended to all the others who belong to Class-IV service and who have been left out in the Resolution. Thus, so far as the employees of Class-IV belonging to S.R.P.F. were given the full benefit of additional pay for additional duty rendered by them on holidays. It appears that the Director General of Police (read) Gujarat State issued direction contained in its letter/circular dated 17th July, 1992, on the subject regarding payment of additional pay for Class-IV employees of the Police Department who are working on 2nd

and 4th Saturdays, Sundays and on Public holidays. In the said Circular, it has been mentioned that in view of the Resolutions of the Home Department of the State Government dated 16th October, 1991 and 16th April, 1992, all the employees of Class-IV in the S.R.P.F. are to be paid additional pay for rendering service on holidays. In view of the said provision, the District Units also should furnish information with regard to Class-IV employees to the office at Ahmedabad. The said Circular is forwarded to the Police Officers and the District Superintendent of Police, Railways, as well as Officers of the Wireless department and even the Principal of Police training school at Junagadh, and Baroda. It further appears that the present petitioners in view of the aforesaid, had made representation to the respondents whereby, they had prayed for grant of benefit of additional pay for rendering service on holidays. Copy of one such representation is produced on record today by Ms. Panchal which is made in the year 1997. It is stated that uptill now no decision has been taken on the same.

4. It is a matter of surprise that the petitioners who are asked to render service even on holidays like 2nd and 4th Saturdays, Sundays and on Public holidays and their duty is full time and they are not being paid any additional amount for the additional work. These petitioners belong to Regular Police Force of the State. It is now clear that so far as additional pay for additional duty on holidays is concerned, the said benefit is being made available to the employees of Class-IV service of S.R.P.F. The recommendation of this benefit to be given to Regula Police Force has already been made by its Director General of Police way back in the year 1992. It is rather unfortunate that discriminatory treatment is being meted out to the employees like the petitioners belonging to Class-IV service of the Regular Police Force. If they are required to sacrifice their holidays for additional duties, there is equally an obligation on the part of the respondents to adequately compensate them for the same. It is also noteworthy that, the S.R.P.F. is receiving this benefit and the employees of Class-IV of that force are therefore better placed than their counter part in Regular Police Force. It is, therefore, high time that their case also be considered favourably by the respondents.

In view of the aforesaid, following directions are required to be granted :-

The respondents are directed to consider the case of the petitioners and also of the Class-IV employees who are not before this Court of Regular Police Force for giving benefit of additional pay for duties performed by them on closed Saturdays, on regular holidays on Sundays and also on public holidays just as is being done in case of Class-IV employees of the S.R.P.F. However, the decision that may be taken by the respondents should be given, keeping in view the decision rendered by this Court in Special Civil Application No. 1488 of 1988 and also the Circulars referred above and the observations made in the present judgment. The respondents are, further directed to take appropriate decision on or before 31st October, 2004.

With the aforesaid directions, these petitions are partly allowed. Rule is made absolute with no order as to costs.

[AKSHAY H. MEHTA, J.]

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